

be recoverable in the manner hereinafter directed for the recovery of the costs and expenses of executing works in pursuance of this Act.

Court of Mayor and Aldermen.

45. And be it enacted, that all the powers and authorities by this Act vested in the mayor and aldermen of the city of London may be lawfully exercised by the Court of Mayor and Aldermen of the said city to be holden in the outer chamber of the Guildhall of the said city according to the custom of the said city.

EXPENSES OF WORKS.

Repayment of Expenses of Works in certain Cases.—Recovery of Expense from adjoining Owners.—Delay of Payment.

46. And for the purpose of reimbursing any building owner for the expense of works incurred in respect of any party structure, be it enacted, with regard to the following works, so far as relates to the reimbursement by the adjoining owner of expenses incurred by the building owner in respect of any party structure built to part the buildings or premises belonging to other owners from the buildings or premises belonging to himself, that is to say,

First, with regard to any party-wall hereafter built on the line of junction of any two buildings; and,

Second, with regard to any party-wall hereafter built on the line of junction of any building and any vacant ground or of vacant premises belonging to different owners or occupiers; and,

Third, with regard to a ruinous and defective party-wall pulled down and rebuilt, either with the consent of the adjoining owner, or in pursuance of the condemnation thereof according to this Act, except a party-wall condemned on account of the injury done thereto by any building owner, and the expenses of which and of other incidental works the official referees shall have awarded to be paid by such building owner by virtue of the provision in that behalf; and,

Fourth, with regard to one or more timber partitions between any two or more buildings, pulled down, and a party-wall built in lieu thereof; and,

Fifth, with regard to a new party-wall or party-arch built in lieu of any party-wall or party-arch between intermitted properties pulled down, and with the consent of the adjoining owner, or in pursuance of the condemnation of such party-wall or party-arch; and,

Sixth, with regard to any party-wall built on the site of a party-fence or party-fence-wall, and used otherwise than as a party-fence-wall by the person who shall not have built the same; and,

Seventh, with regard to every other case of reimbursement in respect of any party structure,

That if the party structure be built in the manner, and of the materials, and of the thicknesses of such structure as required by this Act in reference thereto, then it shall be lawful for the building owner at whose expense such work shall have been executed to claim and he is hereby entitled to be paid, and to recover from the person who is entitled to the immediate possession of the adjoining building or ground, or who is in the immediate occupation thereof, the following compensations; that is to say,

If a new party-wall or party-arch built on the line of junction by one owner be made use of, either wholly or partially, by the adjoining owner, then the sum of money proportionate to the value of so much of such party structure so made use of; and,

If chimneys, jambs, chimney-breasts and flues, have been set up in any party-wall, in pursuance of the instructions of the owner of any vacant ground adjoining to the same, then a sum equal to the value thereof; and,

If an unsound party-wall or other party structure be pulled down and rebuilt, then a sum of money equal to a proper proportion of the value of the new party structure, deduction being made for due proportion of the old materials; and also a proportionate part of all expenses which shall be necessary for pulling down the old party structure in lieu of which such new party structure shall be built; and,

If a party-wall be built in lieu of a timber partition or other party structure, and be made use of by the adjoining owner, then a sum of money proportionate to the value of so much of such new party-wall as shall be so made use of; and also a proportionate part of all expenses which shall be necessary for pulling down the old timber partition or other party structure; and,

If a party-wall or party-arch already built or hereafter rebuilt be used by any adjoining owner, then a sum of money proportionate to the value of so much of such party structure as the adjoining owner shall use, deduction being made, where proper, for the value of old materials;

And in every case the whole of the reasonable expenses of the shoring up the adjoining building, and of removing any goods, furniture, or other things therein, and of pulling down any wainscot or partition thereof;

And also such surveyor's fees and any other fees payable in respect of any acts performed by the official referees, and also such other costs (if any) as may have been awarded by the official referees as aforesaid in any of the cases hereby provided for;

And until such expenses shall be so paid every person at whose expense such party structure shall have been built is hereby entitled to and shall be possessed of the sole property thereof, and of the ground whereon it stands, and the same shall be vested entirely in the person at whose expense such party structure shall have been built.

Recovery of Costs of building.—Account.—Data of Account.—Examination of Accounts by Official Referees.—Disapproval.—Approval and Demand of Payment.—Recovery of Amount.

47. And be it enacted, with regard to the costs of

all the works which shall be executed under this Act, incurred either by an owner or by an occupier, either on behalf of the owners of the same premises or on behalf of the owner of the adjoining premises, so far as relates to the recovery thereof, that within twenty-one days after the completion of the work it shall be the duty of the person by whom such expense shall have been incurred to deliver to the adjoining owner of the building or premises in respect of which such expense shall have been incurred an account in writing, of the expenses of the work, including all preliminary and incidental operations, and also the work shall have been executed by the authority of the official referees, by virtue of the power hereby provided for supplying the want of consent of owners, then a copy of such account shall also be delivered to the official referees at their office; and that every such account must contain a true account.

First, of the number of rods and parts of rods of brick-work, and of all digging, and of concrete, stone-work, and other requisite materials, and of the labour required in executing so much of the work as the owner of the adjoining building shall be liable to pay; and of the respective prices thereof; and,

Secondly, of any deduction which such adjoining owner shall be entitled to make therefrom on account of the old materials of so much of the wall or other structure pulled down which shall have belonged to him;

And also a true account of the expenses of all other preliminary and incidental operations; and that all such works must be estimated and valued in every such account at such rates and prices as shall from time to time be fixed by the official referees; and that if within ten days from the delivery of such account any party dissatisfied with the proportion of the amount thereof charged to him appeal to the official referees, then upon the receipt thereof, or if in cases of want of due consent as aforesaid, such account be delivered to the official referees as aforesaid, it shall be the duty of the official referees to examine such account, and to certify whether they approve or disapprove of the items thereof, and whether the rates and prices are duly charged, and whether the proportion of the account charged to the party appealing be duly charged, and also to appoint how and by whom the expenses of such examination are to be borne, and also to appoint the time or times at which the amount of such account and of such expenses payable by any party are to be paid; and that if they certify their disapproval, or that the charges are not duly made, or the amount fairly apportioned with regard to the party appealing, then, before any demand be made or any proceedings be taken thereon, the account must be amended, and again examined by the official referees, and certified as aforesaid; and that if the official referees certify their approval, then at the time or times appointed by the said official referees it shall be lawful for the person entitled to such costs and expenses to demand the amount thereof; and that if, within ten days after the delivering of such account to the party liable to pay the same, such party do not either appeal against such account or pay the same, or if, within ten days after the demand thereof, in conformity with the certificate of the official referees, the amount thereof, together with the costs of the examination of the account as the official referees shall certify, be not paid, then it shall be lawful for the person entitled thereto to recover the same, or so much thereof as shall be then due, by the summary proceeding hereby provided.

Reimbursements of Costs of Works to Occupiers.—Discharge and Repayment.

48. Provided always, and be it enacted, with regard to works executed under this Act, so far as relates to the reimbursement to the occupier of any costs by him paid in respect thereof, that, unless there be some covenant or agreement to the contrary between the parties, it shall be lawful for such occupier and he is hereby entitled to deduct from the rents due or becoming due from him to his lessor or landlord the amount of any such costs, charges, and expenses payable by his lessor or landlord, and the costs, charges, and expenses of any distress and sale made on him through the default of his lessor or landlord; and that the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been so levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier.

Recovery of Expenses of Buildings.—Differences.—Determination by Official Referees.—Charges.—Receipt of Rents.—Recovery of Rents.—Priority of Right.—Limitation of Distress.—Continuance of Distress until Payment made.

49. And be it enacted, with regard to the costs and all other expenses of pulling down, securing, repairing, and rebuilding party structures, or other parts of buildings, according to the provisions of this Act, so far as relates to the recovery thereof amongst the several owners of the premises, that when such costs and expenses shall have been ascertained and paid by the owner upon whom the payment thereof shall have first fallen, then, as to any building or tenement held under any lease or agreement for a lease, or other agreement for the occupation thereof, made before the coming into operation of this Act, it shall be lawful for such owner and he is hereby entitled to recover the same from the persons now bound or liable by law or by any existing contract to maintain and repair such buildings in respect of which such costs and expenses shall have been incurred; but if any dispute, or difference arise as to the persons so bound or liable, then every such dispute or difference shall

be referred to the official referees; and that thereupon such official referees shall ascertain and determine the persons bound or liable to pay such costs and expenses, and also in what proportions such costs and expenses are to be paid by the parties liable to pay the same, and their decision shall be final; and that as to any building or tenement to be held under any lease or agreement for a lease, or other agreement for the occupation thereof, made after the coming into operation of this Act, except a lease renewable for ever on a fixed fine or other customary payment, all such costs and expenses shall be charged upon the lessor granting such lease or making such agreement, and not upon any leasee or sub-leasee holding under any such lease or agreement, subject, nevertheless, to any express covenant or agreement made between any such lessor and leasee in that behalf; and in case of such excepted lease such costs and expenses shall be charged upon the leasee instead of the lessor, subject, as aforesaid, to any express covenant or agreement in that behalf between any such leasee and his sub-leasee holding under such lease upon other than a fixed fine or customary payment as aforesaid; and that in default of such costs and expenses being duly paid it shall be lawful for the party to whom the same shall be payable and he is hereby entitled to receive from the occupier thereof the rents and profits of such building or tenement, and for that purpose to give notice to such occupier to pay over to him such rents and profits; and that thereupon, if such occupier fail to pay such rent and profits accordingly, then it shall be lawful for the person to whom such costs and expenses shall be payable to recover the same from such occupier by the summary proceeding hereby provided, in such proportions and at such times as shall be appointed by the award of the said official referees in that behalf; and that after such notice shall be given, and before such costs and expenses shall be paid, it shall not be lawful for any person otherwise entitled to receive such rents and profits and he is hereby disabled from bringing any action, and from taking any proceeding at law or in equity to recover such rents and profits: provided always, that if on the hearing of the application for the warrant to levy such costs and expenses by distress, according to the provision of this Act in that behalf, the occupier, not being an owner, shew that he is not bound to pay in respect of such building or tenement any rent or profit, or that the amount of the rent or profit payable by him is not sufficient, then it shall not be lawful to issue such warrant, if there be no rent due or accruing, or, if there be rent due or accruing, then to the extent only of the amount of such rent; and that if such costs and expenses or any part thereof remain unpaid, and if the same or any future occupier be or become liable to pay rent in respect of such building or tenement, then, from time to time until the same be paid, it shall be lawful to levy the same by distress, according to the provisions of this Act in that behalf, upon the same or any such future occupier.

Official Referees to determine Contributions.—Proportional Contributions.—Division of Official Referees.—Recovery of Excess paid by any Contributor.

50. And be it enacted, with regard to such costs and expenses of works executed under this Act, so far as relates to contribution thereto by persons bound or liable to make contribution, that for the purpose of enabling the party upon whom the payment of such costs and expenses shall fall, either in the first instance or subsequently, to obtain contribution from other persons, being owners according to the meaning of this Act, in like degree, and so bound or liable to make contribution, it shall be lawful for every such first-mentioned person, whether he be freeholder, copyholder, leaseholder, mortgagor in possession, and whatever may be his interest, or the nature and extent of such his interest, and whether he hold in his own right or in right of others, and whatever may be the kinds and degrees of their respective interests, and he is hereby entitled to a contribution from every other person having as owner an interest in the premises, of whatever kind or degree, which contribution is to be computed according to the amount of his interest in proportion to that of other persons interested, so far as such persons may be known, or can be reached by process of any court of law or equity; and that it shall be lawful for any party so interested and he is hereby entitled to require the official referees to settle and determine the same by their award, and their decision shall be final; and that if the person upon whom the payment of such costs and expenses shall have fallen have paid in respect of the interest of another or others, either unknown or who could not be reached by process of any court of law or equity, more than his own just proportion, then, on the production of such award, duly made, signed, and sealed, it shall be lawful for such person to have and exercise against other parties against whom such award shall be made and he is hereby entitled to the like remedies to compel payment of money as are hereby given for compelling the first payment of such costs and charges of such expenses.

DRAINAGE OF HOUSES.

Making of Drains according to Schedule (H).—Penalties.—Communications with Sewers.—Sinking Piers, &c. of Commissioners of Sewers.

51. And now, for the purpose of facilitating the improvement of the drainage of houses, be it enacted, with regard to the drains, cesspools, and privies to buildings hereafter built, so far as relates to the making thereof, that from the passing of this Act all the conditions, regulations, and directions contained in the Schedule (H) to this Act annexed shall be duly observed and performed; and that if any person offend in respect thereof he shall be liable to all the penalties and forfeitures by this Act imposed in re-